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Paper No. 10

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OCT 21 2002

OFFICE OF PETITIONS

In re Application of :
Michael Payne, Karl Allen, :
Rohan Coelho and Maher Hawash :
Application No. 09/965,052 :
Filed: September 25, 2001 :
Title: SPEAKER INDEPENDENT VOICE :
RECOGNITION (SIVR) USING DYNAMIC :
ASSIGNMENT OF SPEECH CONTEXTS, :
DYNAMIC BIASING, AND MULTI-PASS :
PARSING :

DECISION ACCORDING STATUS
UNDER 37 C.F.R. § 1.47(a)

This responds to the "Response to Dismissal of 37 C.F.R. § 1.47(a)," filed July 22, 2002; and the "Petition for Suspension of Rules under 37 C.F.R. § 1.183(a)," filed July 29, 2002.

The petition under § 1.47(a) is GRANTED.

The petition under § 1.183(a) is DISMISSED AS MOOT.

The above-identified application was filed on September 25, 2001, with a declaration executed by joint inventors Allen and Payne on behalf of themselves and on behalf of nonsigning inventors Coelho and Hawash. No petition under § 1.47 accompanied this declaration. Accordingly, on October 30, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring the signatures of inventors Coelho and Hawash on a declaration and the surcharge under § 1.16(e) for late filing. This Notice set a period for reply of two months from the mailing date of the notice, with extensions of time obtainable under § 1.136(a).

On February 22, 2002, applicants filed the initial petition under § 1.47, and paid the late surcharge. This response was made timely by an accompanying petition for extension within the second month (and fee). Applicants asserted that status under § 1.47 was proper because inventors Coelho and Hawash refused to join in the application. However, the petition was dismissed because the declaration submitted was not acceptable; it did not include the citizenships of inventors Coelho and Hawash (Decision mailed May 14, 2002).

On instant request for reconsideration, applicants filed a new declaration executed by joint inventor Payne on behalf of himself and on behalf of nonsigning inventors Allen, Coelho and Hawash. Further, applicants have asserted that status under § 1.47 is now proper as to inventor Allen because this previously signing inventor refuses to execute the new declaration.

When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a). If there are no joint inventor(s), then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

However, waiver is not relevant in this instance. The declaration filed February 20, 2002 was not accepted, and thus, is not considered the original declaration. Accordingly, no petition for suspension of the rules under 37 C.F.R. § 1.183(a) is necessary, as the declaration filed July 22, 2002, is the first declaration accepted in this application. This declaration is considered an original declaration under § 1.63, not a supplemental declaration under § 1.67. The issue now is whether the original declaration filed July 22, 2002, will be accepted without the signatures of inventors Allen, Coelho and Hawash.

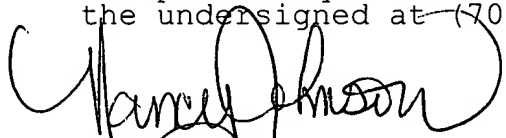
The declaration filed July 22, 2002 has been reviewed and found acceptable. The statement of facts concerning the refusal of inventor Allen has been considered. It has been determined that the evidence is sufficient to show that inventor Allen now refuses to join in the application. The unavailability of inventors Coelho and Hawash was shown on initial petition.

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.



Nancy Johnson
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy